



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND WATERSHEDS

Mr. Kelly Susewind, Manager
Water Quality Program
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

RE: Washington Water Pollution Control Revolving Fund
Program Evaluation Report for SFY 2008

Dear Mr. Susewind:

The U.S. Environmental Protection Agency Region 10 (EPA) has completed its evaluation of Ecology's administration of the Washington Water Pollution Control Revolving Fund. Enclosed is the results of EPA's Program Evaluation Report (PER) for state fiscal year (SFY) 2008. Due the unexpected workload related to the American Recovery and Reinvestment Act of 2009, EPA delayed completion of this PER following the on-site review in May 2009.

This PER documents Ecology's continuing excellence at operating a well-managed water pollution control revolving fund. In SFY2008, it is especially noteworthy that Ecology engaged in a formal program improvement process that resulted in quicker loan execution: most binding commitments were signed within six months.

EPA also identified some room for improvement. Most importantly, Ecology should ensure it commits all available funds within one funding cycle and not roll uncommitted funds into the next fiscal year. EPA also encourages Ecology to review its practices and procedures related to undrawn balances to ensure timely use of funds. Additionally, EPA suggests that Ecology submit an up to date description of the program's State Environmental Review Process for EPA review. As our forthcoming SFY 2009 PER will note, Ecology has steps to address these points in the past year.

This 2008 PER also asks Ecology to consider taking on the role of non-Federal representative for Endangered Species Act consultation. We recognize that this is and has been an ongoing consideration for Ecology. The past year we have seen Ecology take on a valuable coordination and quality assurance role. We appreciate this role as it makes our work easier.

We greatly appreciate the cooperation of Financial Management manager Steve Carley, unit supervisor Jeff Nejedly, and Water Quality Program staff. Their assistance, insight and knowledge were invaluable to our evaluation.

If you have any questions, please call me at (206) 553-4198. Similarly, David Carcia, our Project Officer for the Washington Water Pollution Control Revolving Fund, can be reached at (206) 553-0890.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. A. Bussell".

Michael A. Bussell, Director
Office of Water and Watersheds

Enclosure

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EXECUTIVE SUMMARY

This report presents the Environmental Protection Agency (EPA) program evaluation of the performance of the Washington Clean Water State Revolving Fund (Fund) administered by the Department of Ecology (Ecology) during State Fiscal Year (SFY) 2008. EPA prepared this report pursuant to the Annual Review Guidance for the State Revolving Fund Programs (Interim Final) published by the EPA's Office of Water in March 2004. This evaluation is being published much later than usual because implementation of the American Recovery and Reinvestment Act (ARRA) significantly disrupted the CWSRF yearly schedule by substantially increasing the workload for the EPA and Ecology. Therefore, EPA conducted an abbreviated review focused on the major elements.

EPA examined the following types of records:

- The Operating Agreement between the EPA and Ecology governing the administration of Washington's Water Pollution Control Revolving Account,
- The grant agreements associated with each of the open EPA capitalization grants to Ecology,
- The Intended Use Plan (IUP) for the Washington Water Pollution Control Revolving Account for SFY 2008,
- Records of financial transactions maintained by the EPA and Ecology,
- An audit report for SFY 2008 for the Washington Water Pollution Control Revolving Fund completed by the Washington State Auditor,
- The annual report submitted by Ecology for SFY 2008,
- Project loan files maintained by Ecology¹.

For this evaluation, EPA conducted an on-site visit (May 18 -20, 2009), reviewed two project files, and held discussions with Ecology's management and program staff throughout SFY 2008. EPA also attended Ecology's Water Quality Financial Assistance Advisory Council meetings which continue to provide a forum in which program issues and problems are discussed.

¹ As part of this annual review we examined the files for two projects that received financial assistance from the Washington Water Pollution Control Revolving Account during SFY 2008. Those file reviews are summarized at the end of this Program Evaluation Report.

Based on this program evaluation of the Washington SFY2008 CWSRF program

Required Action:

1. Sign loans for all available SRF funds within the same state fiscal year in which they are presented in the IUP.

Recommended Actions:

1. Review practices and procedures to ensure that undrawn CWSRF balances are not interfering with expeditious and timely use of committed funds.
2. Submit an updated SERP for EPA review.
3. Continue to build additional environmental review and ESA capacity.

PROGRAM HIGHLIGHTS

The Washington Department of Ecology (Ecology) funds eligible water quality projects through the administration of the Clean Water State Revolving Fund (Fund). The Fund has always been operated as a direct loan program, which means it has never been leveraged through the issuance of bonds. The Environmental Protection Agency (EPA) capitalization grants, Washington state matching funds from state appropriations as well as loan repayments and interest capitalize the Fund.

Ecology manages money from the Fund, the state's Centennial Clean Water program and the state's nonpoint source grants program under §319 of the Clean Water Act, in an integrated program that can be modified to accommodate additional sources of funding such as new state appropriations. This system, unique to Washington State, makes Washington's program especially effective at both maximizing the number of projects receiving assistance in any one year and at maximizing the water quality benefits that the state is obtaining from its water quality financial assistance programs. Additionally, Ecology coordinates its water infrastructure financial assistance with other infrastructure financiers such as the U.S. Department of Agriculture's (USDA) Rural Utilities Service (RUS) and the Washington Public Works Board-managed by the Public Works Trust Fund.

In SFY 2008, Ecology signed approximately \$69 million in binding commitments with around \$65 million going to publicly owned treatment works (POTW) Section 212 projects and \$3 million for nonpoint source Section 319 projects. While only one \$250,000 National Estuary project (Section 320) was funded this year, \$41 million of Washington State's SFY2008 Section 212 and Section 319 money went to projects that have benefited estuarine water quality.

Since the inception of the program, Ecology has received \$464 million cumulatively in EPA capitalization grants and provided \$90 million in state match.² Repayments and interest have brought the cumulative total of the Fund to \$923 million in funds available, \$912 million of which has been signed into loans: \$852 million for POTW and \$60 million spent to implement the state's nonpoint source water quality strategy. Cumulatively, Ecology has funded \$529 million for either

² Clean Water National Information Management System (NIMS); Line 91 for SFY 2008

publicly owned treatment works projects or nonpoint source projects that also protect or enhance one of Washington's two National Estuaries, Puget Sound and Lower Columbia River.³

Loan interest rates are derived from a 30-day average market rate of tax-exempt bonds and based on calculations in accordance with Ecology's rules. In SFY2008, Ecology offered an interest rate of 1.5% for the shorter term loans of five years or less and an interest rate of 3.1% for longer term loans with repayment terms between six and twenty years. Washington also continued its practice of reducing the interest rate for projects in hardship communities. For SFY2008, Ecology reported \$26.5 million in hardship loan to seven local communities offered at zero percent interest with a repayment period of twenty years.

In late SFY 2007, Ecology revised their rules to allow a sliding-scale interest rate for hardship communities. Hardship interest rates now range from zero for those communities most in need to 20%, 40%, to 60% of market rates based upon a communities degree of hardship based upon the criteria established by the new rule. This new rate structure became effective starting in SFY 2009.

³ Data are derived from the Clean Water National Information System and developed and submitted by the Washington Department of Ecology.

FOLLOW-UP FROM PREVIOUS PER

Recommended actions from the SFY2007 PER:

1. Ecology should complete a current (and updated) written description of Washington's SERP to insure consistent implementation of the SERP across the state (at all of its regional offices).
2. Ecology should develop and implement a mechanism for reconciling annual report data on administrative costs incurred by the Fund and the data which the Department enters into the Clean Water National Information Management System (CWNIMS).
3. Ecology should build capacity to operate as the non-federal delegated representative for informal Endangered Species Act (ESA) consultations.

Progress on SFY2007 recommendations:

1. SERP: Ecology's December 2008 SERP policy development process was delayed and SFY2009 ARRA workload took precedence over other priorities. Ecology expects to finalize the SERP, in consultation with EPA, by July 30, 2010.
2. CWNIMS: Ecology corrected the CWNIMS errors in June 2008 and the Fiscal Office implemented a process to improve CWNIMS quality control.
3. (ESA) DELEGATION: In SFY2008, Ecology built some additional capacity, but not enough to operate as the designated non-federal representative for ESA consultations.

REQUIRED PROGRAM ELEMENTS

ANNUAL REPORT

The annual report clearly presents differences between the IUP and actual allocation of funds. Most notably, approximately \$4.8 million was deobligated from other SRF offers and was reallocated to the Lake Stevens project. When a project cannot take funding for any reason, Ecology offers these funds to projects that are on the ranked offer list. This is in keeping with the "timely and expeditious use of funds" requirement.

While Ecology generally requires projects to comply with Washington state growth management regulations, they do make exceptions in cases where public health is an issue or there is exceptional environmental degradation involved. Mason County was out of compliance, but was funded with the understanding that they would be in compliance with these state laws by January 2008.

The annual report presents progress and challenges for short-term and long-term goals including the successful testing of the sliding-scale interest for hardship communities in accordance with Washington Administrative Code (WAC) Chapter 173.98. EPA notes a major goal challenge included a delay of the Washington's Grants, Contracts, and Loans Management System (GCLMS) intended to support the goal to improve funding implementation. The contractor developing the system failed to deliver the final project. Failure of this project was anticipated to delay of an environmental benefits survey required by state Statute⁴. This survey was anticipated to occur in SFY2009.

To achieve the long term goal of assisting hardship communities, Ecology evaluated interest rates and determined it was best to use a sliding scale and changed the State rule to allow this practice. As described above, seven hardship communities obtained 20-year zero percent financing, which provided a potential subsidy of about \$800,000 to hardship communities.

To achieve the long-term goal of perpetuity, Ecology first defined it as "the point at which [the Fund] is earning at least fifty percent of the market rate for tax-exempt municipal bonds" (Chapter 173-98 WAC), which was 2.1% for

⁴ Chapter 70.146 Revised Code of Washington (RCW) — *Water Pollution Control Facilities Financing*,

SFY2008. Ecology reports 1.9% earnings this year. (WAC 173-98-000) states a goal of meeting perpetuity by SFY2016. EPA looks forward to reviewing Ecology's progress on this aspect of the program.

ECOLOGY SRF PROGRAM MANAGEMENT

New this year, Ecology reported that they formed a CWSRF Management Oversight Team. The new team will meet twice per year and review administrative rule changes, audit findings or concerns, legislation, and budget. The annual report states that this team's role is to advise Ecology's Senior Management Team (SMT). The Oversight Team is intended to complement the role of the Program's external advisory group and other external stakeholders.

MBE/WBE

Both projects reviewed complied with the MBE/WBE rule. Ecology quarterly reports indicate about \$75,000 WBE/MBE was awarded through contracts under CWSRF assistance agreements. EPA notes that projects funded from capitalization grants awarded after May 28, 2008 will need to comply with the new Disadvantaged Business Enterprise (DBE) rule.

EXPEDITIOUS AND TIMELY USE OF FUNDS

All money in the Fund, including the capitalization grant, must be expended in an expeditious and timely manner,⁵ which according to EPA guidance⁶ means, among other things, that all available funds need to be signed into binding commitments within one year. To accomplish this feature of the program, Ecology uses an integrated planning and priority setting system to develop an annual project priority list (Offer List) which forms an essential component of the Intended Use Plan (IUP). After the IUP/Offer List is final, project proponents have one year to sign the loan offer. Declined funds can go to the next ranked project that is ready to proceed. EPA would like to commend Ecology for accelerating the pace of binding commitments in 2008 with most loans being signed within six months. The remaining commitments were signed within one year as required. Ecology is exploring how to make this year's faster pace of binding commitments a standard practice.

⁵ Clean Water Act (CWA) §602(b)(4) and 40 C.F.R 35.3135(c)

⁶ EPA Memo SRF 99-05

Distribution of committed funds is another area related to expeditious and timely use of funds. EPA notes that Ecology had over \$54 million in undrawn federal and state funds in SFY2008 and \$52 million in undrawn federal and state funds in SFY2007. Distributions in SFY2008 were 64%⁷ of CWSRF funds, *as a percentage of the total executed loans*. However, **EPA commends Ecology for cumulatively distributing 87%⁸ of funds, as a percentage of executed loans, which is on par with the national average.** Given the large undrawn balances, EPA believes Ecology should review its practices and procedures to ensure that these undrawn balances are not impeding expeditious and timely distribution of committed funds. (See Recommended Actions)

In SFY2008 Ecology carried funds forward to the next funding cycle. According to the WA SFY2008 Annual Report (page 2):

Projected dates for signing binding agreements and disbursements were optimistic and, in most cases, the actual dates occurred later than projected. Some funds reserved for specific local governments were declined and some communities did not need all of the funds reserved for them. ***In this case, the remaining funds were used to fund projects in the subsequent funding cycle [emphasis added].*** The program continues to have a higher demand compared to funds available.

EPA notes that carrying funds forward to the subsequent funding cycle is not a generally acceptable practice for the CWSRF and cannot be practiced without prior consultation and approval by EPA. Ecology would need to provide a compelling reason and a written plan for the funds before EPA could approve such a practice⁹. Given the high demand for CWSRF money in Washington State, the declined funds should be applied to other eligible, ranked projects on the Project Priority List from the SFY2008 IUP. EPA notes that ecology has already begun to take action to correct this issue. (See Required Action)

⁷ Clean Water National Information Management System (NIMS); Line 310 for SFY 2008.

⁸ NIMS; Line 311

⁹ EPA Memo SRF 99-09

CROSSCUTTING FEDERAL AUTHORITIES

Cross-cutter authorities are the requirements of other federal laws and executive orders that apply in federal assistance programs. These authorities apply to projects and activities that receive funding equal to the cumulative amount of the federal capitalization grants. Projects funded beyond the cumulative amount of the federal capitalization grants are not generally subject to cross-cutting authorities.¹⁰ However, if the requirements are nevertheless met, cross-cutters can be banked¹¹ and applied toward future requirements.

EPA reviewed two project files during this program evaluation: Mount Vernon and Toppenish. Neither file contained sufficient documentation to confirm compliance with either the Endangered Species Act (ESA) or the Magnuson-Stevens Fishery Conservation Act's Essential Fish Habitat (EFH). The Toppenish file contains a USFWS email that states that species under USFWS jurisdiction are not likely to occur in the project area. However, there is no documentation of a determination for a lead federal agency and there is no documentation of whether or not NMFS/NOAA listed-species or EFH were properly addressed. The file review indicates that USFWS conducted a Biological Opinion for Mount Vernon, but the biological opinion was not included in Ecology's files and there is no documentation regarding NMFS species or EFH.

For the Toppenish and Mount Vernon projects to count toward cross cutter compliance, Ecology should document compliance, including ESA/EFH. If Ecology is not able to confirm and document compliance with all cross cutters for a project, then that project's dollar amount should not be credited toward the cross cutter requirement. In either case, Ecology should ensure that cross cutter compliant projects have a cumulative dollar amount that is at least equal to the cumulative total of all CWSRF capitalization grants awarded to Ecology. EPA is confident that Ecology meets this requirement and will continue to do so.

¹⁰ All programs, projects, and activities undertaken by the CWSRF program are subject to the federal anti-discrimination laws, including the Civil Rights Act of 1964, Pub. L. No. 88-352 §601, 78 Stat. 252 (codified as amended at 42 U.S.C. §2000d), the Rehabilitation Act of 1973, Pub. L. No. 93-1123, 87 Stat. No. 94-135, §303, 89 Stat. 713, 728 (codified at 42 U.S.C. §6102). Further, these broader anti-discrimination laws apply by their own terms to the entire organization receiving federal financial assistance, not just to the project itself.

¹¹ Required compliance under the minority-owned and women-owned business enterprise laws by projects whose cumulative funding is greater than the amount of the federal capitalization grant is not "bankable."

ENVIRONMENTAL REVIEW

Ecology uses a State Environmental Review process SERP as allowed by 40 C.F.R. §35.3140 (b). Ecology therefore must either conduct an independent environmental review of all section 212 projects¹² or document that Ecology has approved another agency's environmental determination.

The project files indicate that both Mount Vernon and Toppenish conducted an appropriate form of environmental review (an environmental assessment and a Determination of Non-Significance, respectively) during the facilities planning process. However, the Mount Vernon project file did not contain sufficient documentation to confirm Ecology's concurrence. Neither Toppenish nor Mount Vernon project files contained documentation of public notice or a public comment period.

EPA notes that Ecology generally conducts appropriate environmental reviews, which are often based upon review and concurrence with Washington State's SEPA process. In this year's review, EPA does not see a systemic problem with Ecology's environmental reviews and notes that the SERP update, currently in progress, should resolve any significant documentation consistency issues. (See Recommended Action)

¹² Environmental review is also required for all section 319 or section 320 projects that also fit the definition of "construction" or "treatment works" under the Clean Water Act.

REQUIRED FINANCIAL ELEMENTS

STATE MATCHING CAPITAL CONTRIBUTION

During EPA's annual review visit, EPA tested a sample of cash draw transactions. As part of this testing, EPA verified that correct processes are being followed for depositing state match into the fund in the required proportion. Federal capitalization grants provided under the Clean Water State Revolving Fund program require states to provide an amount equal to 20% of the federal grant in state matching funds. Cash draw transaction testing and review of the audited SFY 2008 Financial Statements confirms that the Washington program is meeting this requirement. The cumulative amount of appropriated state match funds, \$90,528,893, is recorded in the Washington program's annual report. This amount is also recorded in the Clean Water National Information System (CWNIMS) report for 2008.

ANNUAL REPORT EXHIBITS AND FINANCIAL STATEMENTS

The SFY 2008 annual report generated by program staff and the Ecology Fiscal Office reflects the result of the process to streamline the annual report that began three years ago with the annual review of SFY 2005. Several financial exhibits were modified or removed from the subsequent annual reports for SFY 2006, 2007, and 2008. The resulting group of exhibits in the 2008 annual report meets financial reporting requirements and also provides EPA and other readers a quick source of summary level financial information. These are excellent improvements.

An additional exhibit included in the 2008 annual report provided a report on the annual and cumulative administrative expenses paid from the Fund's administrative allowance. Program regulations set a limit of an amount from the Fund equal to 4% of the cumulative federal grant awards that can be used for program administration. With this reporting mechanism in place, the "administrative account balance" can be more readily reconciled to the amount of administrative costs paid from the CWSRF as reported in CWNIMS. EPA appreciates the work by Ecology's Fiscal Office to generate this additional exhibit for inclusion in annual reports.

FINANCIAL STATEMENT AUDIT

The Ecology Fiscal Office engaged the Washington State Auditor's Office to conduct a financial statement audit of the Water Pollution Control Revolving Fund for SFY 2008. The audit report provided a positive, unqualified¹³ opinion about the program's financial statements and found no material weaknesses in the Ecology's internal controls over the CWSRF loan program. The audit report also issued an unqualified opinion, i.e. positive report, on the Agency's compliance applicable to the federal capitalization grants for the CWSRF program. The audit reported "no findings" requiring disclosure under federal program audit guidelines.

EPA appreciates the effort that Ecology expends in having an annual audit of the CWSRF program. The strength and positive results realized by the Washington Water Pollution Control State Revolving Fund, (CWSRF program) is largely due to the diligence of program and fiscal staff ensuring that program procedures and policies are followed, and that generally accepted accounting principles (GAAP) are consistently applied. The annual audit report is a solid testimony to the financial integrity of the program.

FINANCIAL CAPABILITY ASSESSMENTS

Consistent with previous annual review discussions and PER recommendations, (SFY2005 and SFY 2006 PERs), Ecology utilizes an in-house procedure for conducting financial capability assessments on all loan applicants. This year's annual review included a conference telephone call with Ecology staff to discuss the process they used during SFY2008. This discussion covered how loan applicants are notified about financial information requirements, how the submitted information is reviewed, and how the assessment process is documented in each loan file. Furthermore, we discussed how particular loan conditions might result from a borrower's financial condition as revealed by the financial capability assessment procedures.

Based on the described procedures, we believe that the Washington program now has an adequate procedure in place for conducting the appropriate level of financial capability assessments on potential revolving fund borrowers. For future

¹³ An unqualified opinion is an auditor's judgment that he or she has no reservation as to the fairness of presentation of an entity's financial statements and their conformity with Generally Accepted Accounting Principles (GAAP); also termed *clean opinion*.

annual reviews, it would be helpful for EPA to hear about how loan recipients are responding to the information requirements and annual rate-reporting that are incorporated in Ecology's new financial capability assessment procedures. Additionally, it should be noted that the key factor for ensuring continued success of the financial capability assessments is DOE's ability to sustain the level of effort and staff expertise needed to consistently apply the recently implemented procedures. The increased funding level is expected to raise the number of applicants, increasing the workload significantly.

FINANCIAL INDICATORS

Financial indicators for the Washington Clean Water State Revolving Fund highlight the strong performance of the program. The return on federal investment increased to 200% at the end of SFY 2008, from 197% the previous year. This indicator measures the success of the Washington program in leveraging the funds provided by federal capitalization grants. The Washington program has also maintained strong performance in the amount of loans made as a percentage of funds available. During SFY 2008, the WA program generated loans for water quality projects at 99% of funds available. Please refer to the chart below for a comparison of recent fiscal year performance according to financial indicators by which state CWSRF programs are evaluated.

WA SFY2008 FINAL PER - JULY 2010

Description	WA State SFY 2007	WA State SFY 2008	Regional Average ¹⁴ for FY2008	National Average ¹⁵ for FY2008
# 1- Return on Federal Investment - Shows the amount invested in water quality beneficial projects for each federal dollar invested	197%	200%	178%	169%
# 2-Percentage of Closed (executed) Loans to Funds Available For Loans - Shows the amount of signed loan agreements compared to the amount of funds available for loans	109%	99%	102%	97%
# 3-Percentage of Funds Disbursed to Closed Loans - Shows the amount of funds actually disbursed compared to the amount of signed loan agreements	81%	87%	80%	83%
# 4-Benefits of Leveraging -	N/A	N/A	N/A	N/A
# 5-Perpetuity of Fund - Demonstrates whether the program is maintaining its contributed capital. A positive result indicates the Program is maintaining its capital base	\$120,375,831	\$128,600,000	N/A	N/A
# 6-Estimated Subsidy - An estimate of the CWSRF interest rate subsidy, stated as a percentage of the market rate. (Market rate for 2008 was 4.6%)	72.9%	59.2%	53%	52%

¹⁴ Regional Average includes data for Alaska, Idaho, Oregon, and Washington. Data is from the Clean Water National Information Management System, CWNIMS.

¹⁵ National Average is for states that have not leveraged, except for Indicator #6 which averages all states. Data is from the Clean Water National Information Management System, CWNIMS.

REQUIRED ACTION

1. Sign loans for all available SRF funds, including repayments, repayment interest, investment interest, and the annual capitalization grant, within the same fiscal year in which they are presented in the IUP.

RECOMMENDED ACTIONS

1. Review practices and procedures to ensure that undrawn CWSRF balances are not interfering with expeditious and timely use of committed funds.
2. Submit an updated SERP for EPA review.
3. Continue to build additional environmental review and ESA/EFH capacity.

Attachments

1. Annual Review Checklists
2. Toppenish (Loan # L0800015)
3. Mount Vernon (Loan # L0700017)

Use of these Checklists

The checklists that follow are designed to provide a convenient method for ensuring that the annual review has addressed all of the major review elements. The checklists are organized by topic for easy reference and do not represent a suggested order for conducting the review. For example, project file reviews may touch on many different annual review topics and the checklists provide a mechanism to quickly locate the topic and record the findings while moving from one topic to another. Once the review is completed, all of the topics must either be specifically addressed or noted as not being covered during this review. If an area was not reviewed, note the reason for not reviewing it and any future review activities.

For the items that are reviewed, the requested information on the checklist must be completed noting your findings. Make sure to check all data sources that were used in determining the findings. Pertinent attachments should be added to the checklists and referred to as is appropriate. The checklists must be used as your work papers for the overall evaluation and a reference document in the future to prepare for the next annual review.

It should be noted that the checklist topics are references and are not intended to be comprehensive statements of each program item. Other supporting documents, such as the Annual Review Guidance, program documents provided in the SRF Document Library, the SRF Audit Compliance Supplement, the EPA SRF Financial Planning Model, and many other SRF related information and tools should be utilized to delve in depth into specific review topics.

SRF Annual Review Information Sheet

State Under Review: _____ Washington
Annual / Biennial Report RxCW

For SRF Fiscal Year Beginning: 07/01/2007 Ending: 06/30/2008

Annual Audit Received: 03/31/2008

State Contact: Cindy Price

Audit Year: 2008

Phone No. (360) 407-7132

Core Review Team:

<u>Role</u>	<u>Name</u>
Team Leader	Michelle Tucker
SRF Financial Analyst	Chris Castner
CWSRF Project Officer	David Garcia
CWSRF File Reviewer	Mike Lehner

State Staff Interviewed

FAS Manager, Steve Carley; Unit Supervisor, Jeff Nejedly
SRF Coord Brian Howard; SRF F.A., Cindy Price
Financial Officer, Gary Zeiler; Financial Manger, Bill Hashim
Environmental Engineer 5, David Dunn; Data Specialist, Brian Brada

Project Files Reviewed: Mount Vernon (Loan # L0700017) _____
Toppenish (Loan # L0800015) _____

	First Team Meeting	Second Team Meeting	On-Site Visit	Draft PER	Final PER
Estimated Date:	Jan-09	Feb-09	February 18 - 20, 2009	12/31/2009	2/1/2010
Actual Date:	Jan-09	Feb-09	February 18 - 20, 2009	1/15/2010	7/16/2010

Required Program Elements

Review Item and Questions to Answer <i>reference to guidance manual</i>	Yes	No	N/A	Comments	Data Sources (check all that apply)
1.1 Annual / Biennial Report					
1 Does the State's Annual / Biennial Report meet all requirements?	X				November 20, 2008
a. Reports on progress towards goals and objectives	X				
b. Reports on use of funds and binding commitments	X				p. 20 and Exhibit #1 in
c. Reports on the timely and expeditious use of funds	X				
d. Identifies projects and types of assistance provided.	X				
e. Includes financial statements and cross-references independent audit report		X		Independent audit not yet received at the time annual report was published; report uses unaudited financial statements.	
f. Provides overall assessment of the SRF's financial position and long-term financial health	X				
g. Demonstrates compliance with all SRF assurances	X				
h. Demonstrates compliance with SRF program grant conditions	X				
i. Demonstrates that the highest priority projects listed in the IUP were funded (DW only)			X	The Department uses a water quality driven project ranking system that directs the available funds to the projects with the biggest water quality benefits. Loans are executed during the year as projects are ready to proceed.	
j. Documents why priority projects were bypassed in accordance with state bypass procedures and whether state complied with bypass procedures.		X		No projects were bypassed. The reports states that funds declined were moved to the next funding cycle (p.2). EPA notes that under the IPPSS, ECY first should fund other priority eligible projects instead moving declined funds to the next funding cycle. (See Required Action)	p.2 Annual Report.
k. Documents use of set-aside funds (see set-aside sheet for details)			X		
l. Was the Annual / Biennial Report submitted on time?	X				
m. If the State assesses the environmental and public health benefits of projects, are the benefits discussed in the Annual/Biennial Report? If the answer is yes, the comment section should contain an explanation.		X		While the report does not discuss environmental benefits, per se, it does state (p. 3) that, in accordance with Chapter 70.146 RCW, ECY is requiring applicants to incorporate the environmental benefits of the proposed project. ECY is also developing outcome-focused performance measures which have been entered into a database from SFY 2004 through SFY 2008. Although two projects were scheduled for "post project assessment analysis," no surveys were actually conducted during SFY 2008. Annual Report states that tools should be in place for SFY2009 to allow surveys of project environmental performance. EPA looks forward to the discussion of environmental benefits in the SFY2009 report.	

Required Program Elements

Review Item and Questions to Answer <i>reference to guidance manual</i>		Yes	No	N/A	Comments	Data Sources (check all that apply)
1.2 Funding Eligibility						
1	Are projects receiving assistance eligible for funding?	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u>X</u> Project Files
						<u>X</u> Priority List
2	Is documentation being received from assistance recipients to support the amount and eligibility of disbursement requests?	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	<u>X</u> Project Files - Pay Request Documentation <u>X</u> Approval documentation
3	Does the State have controls over SRF disbursements to ensure that funds are used for eligible purposes?	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	
4	Is the state meeting the 15% small system requirement? (DW only)	<u> </u>	<u> </u>	<u>X</u>	<u> </u>	
5	Does the State have procedures to ensure that systems in significant	<u> </u>	<u> </u>	<u>X</u>	<u> </u>	
1.3 Compliance with DBE Requirements						
1	Is the State complying with all DBE requirements (setting goals, six affirmative steps and reporting)?	<u>X</u>	<u> </u>	<u> </u>	<u> </u> bid process and the loan conditions. <u> </u> <u> </u> <u> </u> It is standard practice for Washington subrecipients to continue to submit quarterly DBE reports to WDOE which are consolidated and sent to EPA.	<u>X</u> Grant / Operating Agreement <u> </u> Annual / Biennial Report <u>X</u> Project Files <u>X</u> DBE Reporting Forms
2	Are assistance recipients complying with all DBE requirements?	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	
1.4 Compliance with Federal Cross-Cutting Authorities (Cross-Cutters)						
1	Is the State complying with applicable federal cross-cutting authorities?	<u>X</u>	<u> </u>	<u> </u>	<u> </u> EPA is confident that Ecology is meeting this requirement, however, the project files reviewed did not contain sufficient documentation to confirm that ESA was sufficiently consulted on these projects.	<u>X</u> Project Files
2	Is the State ensuring that assistance recipients are complying with all	<u>X</u>	<u> </u>	<u> </u>	<u> </u>	
3	Were there any issues which required consultation with other State or Federal agencies?	<u>X</u>	<u> </u>	<u> </u>	<u> </u> Projects required informal consultation with SHPO, and the THPO.	
a.	What did the consultation conclude with regard to compliance with the cross-cutter?	<u> </u>	<u> </u>	<u> </u>	<u> </u> see file review summary checklists for Mount Vernon and Toppenish	

Required Program Elements

Review Item and Questions to Answer <i>reference to guidance manual</i>	Yes	No	N/A	Comments	Data Sources (check all that apply)
1.5 Compliance with Environmental Review Requirements					
1 Are environmental reviews being conducted in accordance with the State's approved environmental review procedures (SERP)?	X			needs to be updated to bring it in line with its current rules and practices.	X Project Files
2 Does the State document the information, processes, and premises leading to decisions during the environmental review process?	X			No documentation found	X Project Files
a. Decisions that projects meet requirements for a categorical exclusion (CE) or the State equivalent?			X	No categorically excluded projects were reviewed this year.	
b. Environmental Assessment (EA)/Findings of No Significant Impacts (FONSI) or the state equivalent.	X				
c. Decisions to reaffirm or modify previous SERP decisions.			X	No projects reviewed this year fit this category.	
d. Environmental Impact Statement (EIS)/Records of Decisions (RODS) or the State equivalent.			X	No projects reviewed this year fit this category.	
3 Are public notices and meetings, as required by the SERP, provided during the environmental review process?		X		confirm public notice of the FNSI for City of Mount Vernon and for Toppenish as per WAC 197-11-340 (SEPA).	
4 Are documented public concerns being addressed/resolved by the State in the environmental review process?		X		See previous comment in section 1.5.3	
5 Do environmental reviews document the anticipated environmental and public health benefits of the project?	X				
1.6 Operating Agreement					
1 Is the State's Operating Agreement up to date reflecting current operating practices?	X			While an updated ECY OA is complete, EPA notes that the OA should incorporate the new SERP, by reference, when it is finally updated.	Last update date 10/20/2008
a. Program administration	X				
b. MOUs	X				
c. Description of responsible parties	X				
d. Standard operating procedures	X				

Required Program Elements

Review Item and Questions to Answer reference to guidance manual		Yes	No	N/A	Comments	Data Sources (check all that apply)
1.7 Staff Capacity					EPA notes that Ecology staffing levels should support building capacity for assisting with endangered species act section 7 consultations.	<input type="checkbox"/> Staff interviews
a. Accounting & Finance		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
b. Engineering and field inspection		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
c. Environmental review / planning		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
d. Management		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
e. Management of set-asides (DW only)		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
2 Does the program have an organizational structure to effectively		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
1.8 DWSRF Withholding Determinations						
1 Did the State document ongoing implementation of its program for		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
2 Did the State document ongoing implementation of its capacity development strategy?		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
3 Did the State document ongoing implementation of its operator certification program?		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		

Worksheet 2

Required Financial Elements

Review Item and Questions to Answer	Yes	No	N/A	Comments	Data Sources (check all that apply)
2.1 State Match					
1 Has the State provided match equal to 20 percent of the grant amount?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Review of accounting records confirms deposit of state match funds coinciding with all federal cash draws. CWNIMS data for SFY08 reports annual and cumulative totals for state match. Timing of the 2008 grant award (in May 2008) and the appropriation for required state match (effective July , 2008) makes the CWNIMS cumulative total calculate at 19% for the end of SFY2008 versus the required 20%. EPA's Region 10 Financial Analyst confirmed with the state program, that in fact the required 20% match was available for the 2008 grant.	<input checked="" type="checkbox"/> Audited Financial Statements <input checked="" type="checkbox"/> Annual / Biennial Report <input checked="" type="checkbox"/> State Accounting Records Review
2 Was each match amount deposited at or before the federal cash draw?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cash draw transaction testing review of accounting records of state match deposits.	<input checked="" type="checkbox"/> Audited Financial Statements <input checked="" type="checkbox"/> Annual / Biennial Report <input checked="" type="checkbox"/> State Accounting Records Review
3 What is the source of the match (e.g., appropriation, State GO bonding, revenue bonds, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	State appropriation	<input type="checkbox"/> Grant Application <input checked="" type="checkbox"/> Audited Financial Statements <input checked="" type="checkbox"/> Annual / Biennial Report
4 Are match funds held outside the SRF until the time of cash draws?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5 If bonds are issued for state match, and the SRF is used to retire these bonds, do the bond documents clearly state what funds are being used for debt service and security?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
a. Has the state match structure been approved by Headquarters?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
6 Is the state match bond activity consistent with the approved state match structure?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
2.2 Binding Commitment Requirements					
1 Are binding commitment requirements being met?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	WA CWSRF made binding commitments of \$68.3million in SFY08 against \$\$26.3 million taken in grant payments in the prior fiscal year, (SFY2007 payments).	<input type="checkbox"/> Binding commitment worksheet <input checked="" type="checkbox"/> Annual / Biennial Report <input type="checkbox"/> Project files <input checked="" type="checkbox"/> 2008 CWNIMS, and WA 2007 IUP
a. Are cumulative binding commitments greater than or equal to cumulative grant payments and accompanying State match within one year of receipt of payment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cumulative binding commitments are approx. 211 % of grant payments up to and including the 2007 capitalization grant. (The 2008 grant was awarded in May 2008.)	

Required Financial Elements

Review Item and Questions to Answer	Yes	No	N/A	Comments	Data Sources (check all that apply)
2 Are binding commitments documented in the project files?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
a. Do the commitment dates match reported commitments in the Annual/Biennial report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3 Is there a significant lag between binding commitments, loan execution, or the actual start of the projects?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The few instances of significant project lag were due to technical difficulties on the project that came up after loan agreements were signed. In these (few) cases, the loan was cancelled and the project dropped.	<input type="checkbox"/> Project Files <input type="checkbox"/> Record of binding commitment dates <input type="checkbox"/> Loan documents <input checked="" type="checkbox"/> Discussion with Program Manager
a. What is the typical and longest lag from binding commitment to project start?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Standard language in WA loan agreements stipulate that construction begin within 4 months after the loan agreement is signed , unless a different time frame for start of construction is mutually agreed upon.	
b. How many projects have never started?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The few instances of significant project lag were due to technical difficulties on the project that came up after loan agreements were signed. In these (few) cases, the loan was cancelled and the project dropped.	
c. How many projects have been replaced because they never started?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
d. If this problem exists, is it recurring? If so, what steps are the State taking to correct the situation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Only "a few" projects have been replaced because they never got started (see discussion in comments to question immediately before this one). Washington's protocol allows a project that is on the Intended Use Plan's priority list one year from list publication to execute a loan. Loan recipients have twelve (12) months to sign a loan agreement, but most were signed in six months from the time they are notified and offered loan financing. If the loan is not signed within that time frame, then funding is offered to the next project down the list.	
Cash Draws					
1 Has the State correctly adhered to the "Rules of Cash Draw" ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cash draw transaction testing and review of project disbursements show that the program is following the rules of cash draw.	<input checked="" type="checkbox"/> Project disbursement requests <input checked="" type="checkbox"/> Accounting transactions <input type="checkbox"/> Approved leveraging structure <input checked="" type="checkbox"/> Federal draw records (IFMS)

Required Financial Elements

Review Item and Questions to Answer	Yes	No	N/A	Comments	Data Sources (check all that apply)
2 Does a review of specific cash draw transactions confirm use of correct proportionality percentages?				EPA is confident that Ecology is meeting this requirement, however, the project files reviewed did not contain sufficient documentation to confirm that ESA was sufficiently consulted on these projects.	
3 For leveraged states, what proportionality ratio is the state using to draw federal funds?			X		
4 Have any erroneous payments/cash draws/disbursements been discovered and, if so , what corrective steps are being taken?		X		No erroneous payments or improper cash draws were discovered as a result of the SFY08 audit or during the annual review.	
5 Does a review of specific Project cash draw transactions confirm the use of federal funds for eligible purposes?	X			Cash draw transaction testing and review of project disbursements show that the program is using federal funds for eligible purposes only.	
6 a. Decisions that projects meet requirements for a categorical exclusion (CE) or the State equivalent?			X	During the review for SFY2008, no administrative cash draws were included in the cash draws selected for transaction testing. We did review and obtain copies of the WA CWSRF's process for charging administrative staff charges and verified the appropriateness of this process. In prior year (2007) cash draw transaction testing via review of administrative disbursements did confirm that the program is using federal funds for eligible purposes only.	
2.4 Timely and Expeditious Use of Funds					
1 Is the State using SRF funds in a timely and expeditious manner?	X				IUP X Binding commitments X Annual / Biennial Report
a. Does the fund have large uncommitted balances?		X			
b. Does the fund have large balances of undrawn federal and state funds?	X			WA has a balance of grant funds not yet drawn of approximately \$54.9 million at the end of SFY08. This is similar to the amount \$52.7M of grant funds undrawn at end of SFY2007. WA drew approximately \$16.3 M during SFY08. (See Recommended Actions)	
c. Are the uncommitted balances growing at a faster annual percentage rate than the growth of the total assets of the SRF?		X			
2 Does the State need to improve its use of funds to ensure timely and expeditious use? Has the state developed a plan to address the issue?		X		Ecology signed most SFY2008 loans within six months and the rest within the required one year down to nine months.	
3 If the state was required to develop a plan demonstrating timely and expeditious use of funds, is progress being made on meeting this plan?			X		

Required Financial Elements

Review Item and Questions to Answer	Yes	No	N/A	Comments	Data Sources (check all that apply)
2.5 Compliance with Audit Requirements					
1 Are annual audits being conducted by an independent auditor?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/> Staff Interviews
a. Who conducted the most recent audit?				The Washington State Auditor's Office conducted an audit of the WA Pollution Control State Revolving Fund program for SFY08.	<input checked="" type="checkbox"/> SFY2008 CWSRF Audit
b. Were there any significant findings? (Briefly discuss the findings.)		<input checked="" type="checkbox"/>	<input type="checkbox"/>	There were no findings from the audit of SFY08.	
c. Did the program receive an unqualified opinion?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	In the audit report for SFY08, the program received an unqualified opinion.	
d. Is the program in compliance with GAAP?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
2 Are State accounting procedures adequate for managing the SRF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
a. Did the audit include any negative comments on the state's internal control structure?		<input checked="" type="checkbox"/>	<input type="checkbox"/>		
b. Did the audit identify any erroneous payments/cash draws/disbursements?		<input checked="" type="checkbox"/>	<input type="checkbox"/>		
c. Has the State taken action to recover the improperly paid funds?			<input checked="" type="checkbox"/>		
2.6 Assistance Terms					
1 Are the terms of assistance consistent with program requirements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> IUP <input checked="" type="checkbox"/> Loan Agreements <input type="checkbox"/> Repayment transactions
a. Are interest rates charged between 0% and market rates? (except as allowed for principal forgiveness)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
b. Do principal repayments start within one year of project completion and end within 20 years, for all non-extended term projects with non-extended loan repayment terms?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
c. Does the program use extended terms or principal forgiveness to the extent it is allowable? (If so report the percentage of project funding in these categories.)			<input checked="" type="checkbox"/>		
2 Does the State periodically evaluate the terms of assistance offered relative to the supply and demand for funds and the long-term financial health of the fund?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Required Financial Elements

Review Item and Questions to Answer		Yes	No	N/A	Comments	Data Sources (check all that apply)	
2.7 Use of Fees							
1	Does the program assess fees on their borrowers?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	IUP
						<input type="checkbox"/>	Loan Agreements
						<input type="checkbox"/>	Repayment transactions
	a. What is the fee rate charged and on what basis (e.g., percentage of closing amount, principal outstanding, principal repaid, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
	b. Are fees being used in accordance with program requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
2	Does the State periodically evaluate the use of fees relative to loan terms to set appropriate total charges to borrowers and assess long-term funding needs to operate the program?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
3	Does the State have procedures for accounting and reporting on its use of fees?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
2.8 Assessment of Financial Capability and Loan Security							
1	Does the State have procedures for assessing the financial capability of assistance recipients? (CW only)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Beginning with applications accepted for the SFY08 funding cycle the WA CWSRF program implemented an in-house procedure for conducting financial capability assessments on all loan applicants.	<input checked="" type="checkbox"/>	Financial Capability Review Procedures
						<input type="checkbox"/>	Loan applications
						<input checked="" type="checkbox"/>	Project Files
2	Are the financial capability policies and procedures being followed? (CW only)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As part of our SFY08 annual review, we held a telephone meeting with WA DOE staff responsible for conducting the financial capability assessments for new loans. Based on the discussions during the phone meeting, Ecology appears to be following appropriate procedures.	<input checked="" type="checkbox"/>	Financial Capability Review Procedures

Required Financial Elements

Review Item and Questions to Answer	Yes	No	N/A	Comments	Data Sources (check all that apply)
					<input type="checkbox"/> Loan approval documentation <input type="checkbox"/> Project Files <input checked="" type="checkbox"/> Staff discussions at annual review visit.
3 Does the state have procedures for assessing the technical, financial, and managerial capability of assistance recipients? (DW only)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/> Capability Review Procedures <input type="checkbox"/> Loan applications <input type="checkbox"/> Project Files
4 Are the technical, financial, and managerial review procedures being followed? (DW only)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/> Capability Review Procedures <input type="checkbox"/> Loan approval documentation <input type="checkbox"/> Project Files
5 Do assistance recipients have a dedicated source of revenue for repayment or, for privately-owned systems, adequate security to assure repayment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A primary purpose of the financial capability assessment process is determination of rate-adequacy / revenue sufficiency for loan repayment.	<input checked="" type="checkbox"/> Financial Capability Review Procedures <input type="checkbox"/> Loan approval documentation <input checked="" type="checkbox"/> Project Files
6 Do assistance recipients have access to additional funding sources, if necessary, to ensure project completion?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Additional funding may be included in the project budget and, if so this information would be included in the original loan agreement. There is no specific general provision in the loan agreement(s) for additional contingency funding.	<input type="checkbox"/> Project Files
2.9 Financial Management					
1 Is the SRF program's financial management designed to achieve both short- and long -term financial goals?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/> Annual / Biennial Report <input checked="" type="checkbox"/> Staff interviews
a. Do the Financial Indicators show progress in the program in funding the maximum amount of assistance to achieve environmental and public health objectives?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The financial indicators for SFY2008 show continued program performance with annual pace at 101%,cumulative pace at 99%.	

Required Financial Elements

Review Item and Questions to Answer	Yes	No	N/A	Comments	Data Sources (check all that apply)
2 Does the State have a long-term financial plan to direct the program?	X			WA CWSRF program management and staff regularly look at the program's long term potential and consider program adjustments in light of anticipated market demand and funding availability.	
a. Was financial modeling used to develop the plan?				DOE contracted a consulting economist to perform financial modeling of their CWSRF program and incorporated the findings during the SFY2005 - SFY2006 rule-making processes. The results of the financial modeling helped DOE to determine an operating definition of "perpetuity" and DOE continues to use the data to inform their long-term planning.	
b. Is the plan periodically reviewed and updated?	X				
c. Does planning address types of assistance and terms, use of leveraging, and transfers or cross-collateralization between programs?	X			Leveraging, transfers and / or cross- collateralization are not typically part of the WA CWSRF's planning.	
3 Are funds disbursed to assistance recipients in a timely manner?	X				
4 Has the State resolved any issues related to loan restructuring, the potential for defaults, and the timeliness of loan repayments?	X			The DOE program staff reported that very few, if any occurrences of late payments have been experienced over the history of WA's CWSRF program.	
5 Are net bond proceeds, interest earnings, and repayments being deposited into the fund?	X				
6 If the State leverages, is its leveraging activity consistent with the accepted leveraging structure?			X		
7 Are leverage and state match bond documents consistent with SRF regulations?			X		

Cash Draw / Disbursement testing: Four (4) cash draws were tested for a total of \$ \$3,479,401 federal draws during the annual review for SFY2008. NO erroneous payments were discovered.

CWSRF File Review Summary

Item Description	What, Where & How Met	Explanation of requirement (if needed)
Project name	Loan Agreement 11/26/07	Toppenish Wastewater Treatment Facility Upgrade
Project Loan Number	Loan Agreement 11/26/07	L0800015
Date of Loan	Loan Agreement 11/26/07	11/26/07
Project Description	1. Loan Agreement 11/26/07	1. This project involves a major upgrade and expansion to the City of Toppenish's Wastewater Treatment Facility with the installation of a new mechanical screen, construction of new aeration basin and secondary clarifier, and installation of UV disinfection channels. The solids handling system will also be improved with a new pump station, new rotary drum thickener, and a new de-watering screw press. The primary digester will be equipped with a new pumped mixing system, and the existing secondary digester will be equipped with a new floating steel gas cover.
Amount of Loan	1. Loan Agreement 11/26/07	1. \$8,911,444 Source of funds for PROJECT (page 4 of 15) amount (see line above) federal portion listed as \$3,689,783, state portion \$5,221,661, CCWF Grant 3,055,556, OWTF \$2,733,000.
Need for Project	Gary & Osborne, Inc. (document #04307) NEPA Environmental Assessment: July 2006	The project is needed to reduce the ammonia concentration in the effluent being discharged to Toppenish Drain and the Yakima River.
Loan Terms (rate/amortization period)	Loan Agreement 03/07/08	V. THE LOAN A. Source and Availability; LOAN Amounts; LOAN Terms When the PROJECT Completion Date of the Initiation of Operation Date has occurred (if appropriate), the DEPARTMENT and the RECIPIENT will execute an amendment to this AGREEMENT which details the final LOAN amount (the "Final LOAN Amount"), and the DEPARTMENT will prepare a final LOAN repayment schedule, substantially in the form of

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>ATTACHMENT 8. The Final LAON Amount will be the combined total of actual disbursement and all accrued interest to the computation date.</p> <p>The Estimated LOAN Amount and the Final LOAN Amount (in either case, as applicable, “LOAN Amount”) will bear interest at the rate of 0% per annum, calculated on the basis of a 365-day year. Interest on the Estimated LOAN Amount will accrue from and be calculated based on the date that each payment is mailed to the RECIPIENT. The Final LOAN Amount will be repaid in equal installments semi-annually over a term of twenty (20) years, as provided in ATTACHMENT 8.</p> <p>D. Method and Conditions on Repayments</p> <p>1. <u>Semiannual Payment.</u> Notwithstanding any other provision of this AGREEMENT, the first semiannual payment of principal and interest on this LOAN will be paid not later than the earlier of</p> <p>(i) one (1) year after the PROJECT Completion Date or Initiation of Operation Date, or</p> <p>(ii) five (5) years from the first payment by the DEPARTMENT.</p> <p>Equal payment will be due every six (6) months thereafter.</p> <p>2. <u>Late Charges.</u> If any amount of the Final LOAN Amount or any other amount owed to the DEPARTMENT pursuant to this AGREEMENT remains unpaid after it becomes due and payable, the DEPARTMENT may assess a late charge (a “Late Charge”). The Late Charge will be additional interest at the rate of one percent per month, or fraction thereof, starting on the date the debt becomes past due and continuing until the debt is paid in full. The RECIPIENT hereby agrees to pay such Late Charge. Nothing contained herein affects the DEPARTMENT’S default rights in</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>Section VIII-C of this AGREEMENT.</p> <p>Attachment #3: Resolution 2008-5 approving the aforementioned loan amount. Attachment #4 legal statement that agreement is a valid obligation and Toppenish is authorized to enter in to it.</p>
Type of assistance under §603(d)	Loan Agreement 11/26/07	Direct loan – revenue secured loan pursuant to OAR 340-54-065(2)
Financial Capability Assessment/Repayment Source Evaluation	June 14, 2007 letter to prospective borrower.	WDOE requested Current Ratio (current assets/current liabilities); Operating Ratio (operating expenses/operating revenues) including information on User chargers in relation to the operating ratio; Debt Ratio (total liabilities/net worth (Measures debt in relation to assets))
Loan Security Provisions	Loan Agreement 11/26/07	<p>V. THE LOAN</p> <p>C. Sources of LOAN Repayment</p> <p>2. <u>Revenue-Secured; Lien Position.</u> This LOAN is a Revenue-Secured Debt of the RECIPIENT's Utility. This LOAN will constitute a lien and charge upon the Net Revenue junior and subordinated o the lien and charge upon such Net Revenue of any Senior Lien Obligations. To secure the repayment of the LOAN from the DEPARTMENT, the RECIPIENT aggress to comply with all of the covenants and agreements herein including, but not limited to, those contained in Section VII of this AGREEMENT.</p> <p>3. <u>Other Sources of Repayment.</u> The RECIPIENT may repay any portion of the LOAN from ay funds legally available to it other than those pledged in Section V-C-2 hereof.</p> <p>4. <u>Defeasance of the LOAN; Refinancing or Additional Financing of the PROJECT.</u> So long as the DEPARTMENT will hold this LOAN, the RECIPIENT will not be entitled to, and will not effect, an economic Defeasance of the LOAN. The RECIPIENT also will not refinance the PROJECT, including making an advance refunding of the LOAN, or obtain grants or loans additional to those listed in Section IV hereof to finance the PROJECT, without</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>the written consent of the DEPARTMENT. If the RECIPIENT decreases or advance refunds the LOAN or obtains additional grants or loans for the PROJECT without DEPARTMENT consent, it will be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay,</p> <p>(i) the LOAN Amount with interest, and</p> <p>(ii) any other obligations of the RECIPIENT to the DEPARTMENT under this AGREEMENT,</p> <p>Unless in its sole discretion the DEPARTMENT finds that repayment from those additional sources would not be in the public interest.</p> <p>Failure to repay the LOAN Amount plus interest within the time specified in the DEPARTMENT's notice to make such repayment will incur Late Charges under Section V-D-2 and will be treated as a LOAN Default under Section VIII-A hereof.</p>
Facility Plan available/Approved	Mills letter – Toppenish POTW Facility Plan, Specifications and Drawings for Toppenish Improvements Project- Tracking#-0712-2 4/23/08	<p>Mills letter – City of Toppenish-Wastewater Facility Plan Tracking No. 0511-2 10/27/06</p> <p>In accordance with RCW 90.48.110 and Chapters 173-98 and 240 WAC, and on behalf of the Department of Ecology, the above referenced document is hereby APPROVED as a <u>facilities plan</u>.</p>
Plans & Specs Approval	Approved 10/27/06	<p>Mills letters – Toppenish POTW Facility Plan, Specifications and Drawings for Toppenish Improvements Project- Tracking No. 06104 (10/27/06). “Ecology has reviewed the Facility Plan, Specifications and Drawings from Gray and Osborne, Inc. In accordance with RCW 90.48.110 Chapter 173-240 WAC. They are approved.”</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
Bid Advertisement and Approval	Notarized Affidavit of Publication	Advertised for two week 12/05/07 through 12/12/07
	Bids Certification	Stamped by state engineer 12/31/08
MBE/WBE Compliance	WBE/MBE certification.	Certification signed by contractor 01/31/08
	Loan Agreement 03/07/08	Attachment # 6 “The RECIPIENT agrees to solicit and recruit, to the maximum extent possible, certified [MBE/WBE] in purchases and contracts initiated after the effective date of this AGREEMENT.
Initiation of Operations/Performance Certification [§204(d)(2)] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that Washington rules still require operations and performance certifications. This project had not initiated operations at the time of review. The SFY 2008 Annual Report states that this upgrade will initiate operation 05/13/2011; Exhibit 1 p. 2.
BPWTT [Best Practical Wastewater Treatment Technology; §201(b)] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that this project will remove ammonia concentrations from the WWTP discharge.
Eligible Categories [§201(g)(1)] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that this project as described provides “secondary treatment or more stringent treatment.”
§201(g)(2) [equivalency] Reclaim, Reuse [Alternative management techniques; e.g., land treatment, small systems, reclamation and reuse of water must be considered]	n/a	Washington has already met its Title II equivalency requirement
Infiltration/Inflow §201(g)(3) [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that this project, as described, proposes to address Infiltration/Inflow problems at the Toppenish facility.

Item Description	What, Where & How Met	Explanation of requirement (if needed)
(§201(g)(5) [equivalency] Innovative/Alternative Treatment Technology	n/a	Washington has already met its Title II equivalency requirement
[§201(g)(6)] [equivalency] Recreation & Open Space	n/a	Washington has already met its Title II equivalency requirement
[§201(n)(1-2)] [equivalency] CSO Funding Limitations	n/a	Washington has already met its Title II equivalency requirement
[§201(o) [equivalency] Capitol Financing Plan	n/a	Washington has already met its Title II equivalency requirement
[§204(a)(1)] [equivalency] Water Quality Management Plans	n/a	Washington has already met its Title II equivalency requirement
Operation and Maintenance [§204(a)(2)] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that Washington still requires WWTP to have an O&M manual into which upgrades are incorporated.
User Charge System [§204(b)(4)] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that Washington requires WWTP to have a user charge system as a revenue source as a condition of the CWSRF loan.
Collection Systems [§211] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that part of this project, as described, involves collection system rehabilitation necessary to the integrity and performance of the WWTP.
Cost Effectiveness [§218] [equivalency]	n/a	Washington has already met its Title II equivalency requirement however EPA notes that Washington continues to conduct value engineering on projects costing more than \$10,000,000. This project, as described, is under that limit.
Davis Bacon Act [§512] [equivalency]	n/a	Project was signed after Oct. 1994 and before October 30, 2009 however EPA notes that Washington State's <i>Prevailing Wages on Public Works</i> , Chapter 39.12 RCW, are specified in the loan agreement.
Environmental Review	Checklist 10/30/06 see next	SEPA, NEPA (ER), & SERP certified as complete by Denise E.

Item Description	What, Where & How Met	Explanation of requirement (if needed)
[§511(c)(1)] [equivalency]	row.	Mills, LHG Section Supervisor WDOE water quality program.
Was the appropriate type of environmental review conducted?	10/30/06 checklist: WA State WPCRF project environmental classification/documentation concurrence for Toppenish:	Yes, “The Program Manager of the Water Quality Program has reviewed the attached documents and concurs that the proposed project: #7 SEPA process complete SEPA checklist and DNS , #8, and #9 checked: NEPA process complete (NEPA environmental report); and #9 the project is in compliance with the SERP.” Signed Denise E. Mills, LHG Section Supervisor Water Quality Program WDOE.
If another agency’s environmental review was adopted, is the adoption process appropriately documented?	n/a	Yes. See previous comment.
Public Notice	No documentation provided	
Public Hearing	No documentation provided	
Was an appropriate range of alternatives evaluated?	yes	Gary & Osborne, Inc. (document #04307) NEPA Environmental Assessment: July 2006 Pp. 10-12
Endangered Species Act	USFWS Biologist David Morgan 06/02/2005	USFWS email states there are no species under USFWS jurisdiction that are likely to occur in the project area. The file did not contain documentation to confirm that NMFS/NOAA listed-species, critical habitat, or EFH were properly addressed per ESA or EFH was addressed per MSFCA.
National Historic Preservation Act	Rohrich, P.E. letter 5/14/08	Yakama Nation On-site Cultural Monitoring – The Yakama Nation will provide routine on-site monitoring of the excavation work for the WWTF Improvements to insure compliance with Yakama Nation and federal requirements. The estimated cost to the City for this work is \$10,000.
Archeological & Historic Preservation Act	Hanh Shaw (EPA) 04/11/2005 letter to Gray & Osborne, Inc. specifically delegating responsibility for the Section 106 process to G&O.	Letter details the EPA’s authority and responsibility under section 106, delegates this to G&O, and requests that all correspondences for same be forwarded to her as the EPA representative for this project’s 106 matters. Letter 04/15/05 WA State Office of Archaeology and Historic

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		Preservation recommended a professional archaeological survey of the area proposed for disturbance. Confederated Tribes and Bands of the Yakama Nation Cultural Resources Report completed on 05/31/06
Wild & Scenic Rivers Act	Environmental Assessment	Yakima River is not designated as “wild and scenic” per the Wild & Scenic River Gary & Osborne, Inc. (document #04307) NEPA Environmental Assessment: July 2006 p. 23
Coastal Zone Management Act Compliance	n/a	Toppenish is not a coastal community.
Coastal Barriers Resource Act	n/a	As defined in this Act, there are no Coastal Barrier Resources found in Washington state.
Farmland Protection Act	July 2006 G&O EA (document #04307)	Documentation of compliance in Gary & Osborne, Inc. (document #04307) NEPA Environmental Assessment: July 2006 p. 20
E.O. 11990 Wetlands Protection	July 2006 G&O EA (document #04307)	Documentation of compliance in Gary & Osborne, Inc. (document #04307) NEPA Environmental Assessment: July 2006 p. 28. “Only ‘minor Palustrine wetlands’ in the Toppenish area and there are no wetlands at or near the WWTF site.
E.O. 11888 Floodplain Management Act	July 2006 G&O EA (document #04307)	EA documents compliance, p. 18
Clean Air Act Compliance	July 2006 G&O EA (document #04307)	EA documents compliance, p. 24
Safe Drinking Water Act	July 2006 G&O EA (document #04307)	Toppenish is not located near any of EPA Region 10 identified sole source aquifers. p. 24
Civil Rights Act	Certification signed 1/31/08	Certification of nonsegregated facilities. G&O report documents compliance, p. 18
E.O. 11246	Signed statement July 2006 G&O EA (document #04307)	Contractor’s Compliance Statement (signed 01/31/08) G&O report documents compliance, p. 18
E.O. 12898 Environmental	Cultural Resources Report	Cultural Resources Report of Toppenish Wastewater Treatment

Item Description	What, Where & How Met	Explanation of requirement (if needed)
Justice	copied in the July 2006 G&O EA (document #04307)	Plant & Collection System April 27, 2006; included in Appendix D of the G&O EA.
Small Business & Rural Communities Act	Loan Agreement 03/07/08	Lists six affirmative steps recipient required to meet the negotiated 0.5% "Fair Share Percentage for SBRAs. No reporting requirement for this provision. Attachment #6 Section M.
Uniform Relocation Act	n/a	No land was purchased.
Debarment & Suspension	Certification signed 1/31/08	
WA Specific – Certification for Contracts, Grants, Loans, and Cooperative Agreements	Certification signed 3/5/08	

CWSRF File Review Summary

Item Description	What, Where & How Met	Explanation of requirement (if needed)
Project name	Loan Agreement 5/7/07	Wastewater Treatment Plant Upgrade, Phase I – Construction
Project Loan Number	Loan Agreement 5/7/07	L0700017
Date of Loan	Loan Agreement 5/7/07	5/7/07
Project Description	Loan Agreement 5/7/07	This project involves the construction of the Phase I improvements for the RECIPIENT's Wastewater Treatment Plant (WWTP). The improvements include an upgrade of the existing WWTP to provide increased hydraulic and organic treatment capacity. The capacity increase will aid the RECIPIENT in complying with the Order of Consent #DE96WQ-N105 (abatement of combined sewer overflows by January 1, 2015) and will aid in achieving the goals of the lower Skagit River total maximum daily load (TMDL) water cleanup plan (Pub. #00-10-010) for fecal coliform bacteria. The project includes construction of a new pretreatment (grit and debris screening) facility, construction of two additional primary clarifiers, upgrade of the existing aeration basins, construction of two additional secondary clarifiers, installation of an ultra-violet (UV) disinfection system to replace chlorine gas, and an extensive odor control system.
Amount of Loan	1. Loan Amendment #1 10/13/08 2. Loan Agreement 5/7/07	1. \$17,359,763 2. \$20,359,763
Need for Project	Water Quality Assistance Application Part 2 Section V 10/27/05	The Lower Skagit River is 303(d) listed for bacteria. A bacterial TMDL has been established to address impairments to contact recreation and help protect shellfish harvesting in Skagit Bay being impacted by Bacteria. The TMDL Report determined: "Combined sewer overflow abatement is the single most important action needed to improve Skagit River water quality and protect Skagit Bay from fecal coliform bacteria contamination." Mount Vernon is the sole discharger of Combined Sewage to the Skagit River. Mount Vernon has agreed to an official order issued by the Dept of Ecology "Order on Consent, No DE96WQ-N105." The order was issued to fulfill the legal requirements of WAC 173-245, to reduce the environmental impact of combined stormwater and raw sewage discharges to the waters of the State, (Skagit River).

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>This project will aid in removing the Skagit River and South Skagit Bay from the 303(d) list for fecal coliform bacteria by providing capacity and storage for the treatment of CSO flows. A larger number of CSO flows will receive secondary treatment and disinfection after this project is completed, reducing the fecal coliform loading to the Skagit River.</p> <p>The Department of Ecology has issued a TMDL study for dissolved oxygen, (DO), Pub. No. 97-326a to correct low dissolved oxygen conditions in the Lower Skagit River during the late summer, dry season. (The Skagit River was not listed on the 303(d) list for DO impairments and the river currently meets DO standards. The Skagit River was placed on the category 4B list, (ID Number 17493). Low dissolved oxygen has a negative effect on aquatic life including listed endangered or threatened species and their dependent life forms. The principal point sources of biochemical oxygen demand (BOD) during this season are ammonia, and carbonaceous BOD from four wastewater treatment facilities, of which the Mount Vernon WWTP is the major point source. The study concluded that the low DO conditions required limitations in BOD and/or ammonia loadings from the treatment plants to meet water quality standards in the future. National Pollution Discharge Elimination Permit (NPDES Permit No. WA-002407-4) issued to the City of Mount Vernon, sets the conditions and requirements necessary to meet State Water Quality standards (WAC 173-201a). This project will assist the City of Mount Vernon WWTP in meeting these NPDES permit obligations designed to meet DO criteria in the receiving water.</p>
Loan Terms (rate/amortization period)	<p>Loan Amendment #1 10/13/08</p> <p>Loan Agreement 5/7/07</p>	<p>This amendment is needed to: adjust quarterly progress report due dates from to 20 days after the end of the quarter, as per the original Loan Agreement, to 30 days; to de-obligate \$3,000,000 in loan funds; and replace repayment schedule #1044 with repayment schedule #1323 created on September 2, 2008.</p> <p>V. THE LOAN A. Source and Availability; LOAN Amounts; LOAN Terms When the PROJECT Completion Date of the Initiation of Operation Date has</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>occurred (if appropriate), the DEPARTMENT and the RECIPIENT will execute an amendment to this AGREEMENT which details the final LOAN amount (the “Final LOAN Amount”), and the DEPARTMENT will prepare a final LOAN repayment schedule, substantially in the form of ATTACHMENT 8. The Final LAON Amount will be the combined total of actual disbursement and all accrued interest to the computation date.</p> <p>The Estimated LOAN Amount and the Final LOAN Amount (in either case, as applicable, “LOAN Amount”) shall bear interest at the rate of 2.6% per annum, calculated on the basis of a 365-day year. Interest on the Estimated LOAN Amount will accrue from and be calculated based on the date that each payment is mailed to the RECIPIENT. The Final LOAN Amount will be repaid in equal installments semi-annually over a term of twenty (20) years, as provided in ATTACHMENT 8.</p> <p>D. Method and Conditions on Repayments</p> <p>1. <u>Semiannual Payments.</u> Notwithstanding any other provision of this AGREEMENT, the first semiannual payment of principal and interest on this LOAN shall be paid not later than the earlier of</p> <p>(i) one (1) year after the PROJECT Completion Date or Initiation of Operation Date, or</p> <p>(ii) five (5) years from the first payment by the DEPARTMENT.</p> <p>Equal payment will be due every six months thereafter.</p> <p>2. <u>Late Charges.</u> If any amount of the Final LOAN Amount or any other amount owed to the DEPARTMENT pursuant to this AGREEMENT remains unpaid after it becomes due and payable, the DEPARTMENT may asses a late charge (a “Late Charge”). The Late Charge will be additional interest at the rate of one percent per month, or fraction thereof, starting on the date the debt becomes past due and continuing until the debt is paid in full. The RECIPIENT hereby agrees to pay such Late Charge. Nothing contained herein affects the</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>DEPARTMENT'S default rights in Section VIII-C of this AGREEMENT.</p> <p><u>3. Repayment Limitations.</u> Repayment of the LOAN is subject to the following additional limitations, among others: those on Defeasance, refinancing and advance refunding, and additional financing contained in Section V-C-4; and on termination, default and recovery of payments contained in Section VIII hereof.</p> <p><u>4. Prepayment of LOAN.</u> So long as the DEPARTMENT shall hold this LOAN, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the LOAN, or any portion of the remaining unpaid principal balance of the LOAN Amount. Any prepayments on the LOAN will be applied first to any accrued interest due, and then to the outstanding principal balance of the LOAN Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact the DEPARTMENT's Revenue/Receivable Manager of the Fiscal Office.</p>
Type of assistance under §603(d)	Loan Agreement 5/7/07	Direct loan – revenue-secured loan
Financial Capability Assessment/Repayment Source Evaluation	Interviews w/ Ecology staff during on site visit	Beginning with applications accepted for the SFY08 funding cycle the WA CWSRF program implemented an in-house procedure for conducting financial capability assessments on all loan applicants.
Loan Security Provisions	Loan Agreement 5/7/07	<p>V. THE LOAN</p> <p>C. Sources of LOAN Repayment</p> <p><u>2. Revenue-Secured; Lien Position.</u> This LOAN is a Revenue-Secured Debt of the RECIPIENT's Utility. This LOAN will constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations. To secure the repayment of the LOAN from the DEPARTMENT, the RECIPIENT agrees to comply with all of the covenants and agreements herein including, but not limited to, those contained in Section VII of this AGREEMENT.</p> <p><u>3. Other Sources of Repayment.</u> The RECIPIENT may repay any portion of the LOAN from any funds legally available to it other than those pledged in Section</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		<p>V-C-2 hereof.</p> <p>4. <u>Defeasance of the LOAN; Refinancing or Additional Financing of the PROJECT.</u> So long as the DEPARTMENT shall hold this LOAN, the RECIPIENT shall not be entitled to, and will not effect, an economic Defeasance of the LOAN. The RECIPIENT also will not refinance the PROJECT, including making an advance refunding of the LOAN, or obtain grants or loans additional to those listed in Section IV hereof to finance the PROJECT, without the written consent of the DEPARTMENT.</p> <p>If the RECIPIENT defeases or advance refunds the LOAN or obtains additional grants or loans for the PROJECT without DEPARTMENT consent, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay,</p> <p>(i) the LOAN Amount with interest, and</p> <p>(ii) any other obligations of the RECIPIENT to the DEPARTMENT under this AGREEMENT,</p> <p>Unless in its sole discretion the DEPARTMENT finds that repayment from those additional sources would not be in the public interest.</p> <p>Failure to repay the LOAN Amount plus interest within the time specified in the DEPARTMENT's notice to make such repayment will incur Late Charges under Section V-D-2 and will be treated as a LOAN Default under Section VIII-A hereof.</p> <p>Page 11 of 16 of Loan Agreement. Covenants and Agreements: B. The RECIPIENT will keep proper and separate accounts and records in which complete and separate entries shall be made of all transaction relating to this AGREEMENT. The RECIPIENT shall keep such records for six years after the receipt of the final loan disbursement.</p>
Facility Plan Available/Approved	Fitzpatrick letter – City of Mount Vernon Wastewater Treatment Plant	<p>In accordance with RCW 90.48.110 and WAC 173-240-010 through 180 of the Department of Ecology, the Facility Plan for this project, dated October 2005 has been reviewed and is hereby approved.</p> <p>This review and approval is limited to assuring compliance with State water</p>

Item Description	What, Where & How Met	Explanation of requirement (if needed)
	Upgrade Final Plans and Specifications 10/20/05	quality laws and regulations listed above. This review and approval does not cover the structural or electrical design elements of this project, nor does the State of Washington assume any liability for the proper engineering of this facility. Nothing in this approval shall be construed as satisfying other applicable federal, state or local statutes, ordinances or regulations.
Plans & Specs Approval	Fitzpatrick letter – City of Mount Vernon Wastewater Treatment Plant Upgrade Final Plans and Specifications 12/7/06	Pursuant to RCW 90.48.110 and WAC 173-240-030, the above-referenced final plans and specifications have been reviewed and are hereby approved. This approval shall not relieve the owners of this facility from any responsibilities or liabilities as a result of noncompliance with the discharge permit during construction or in operation of facilities approved herein.
Bid Advertisement and Approval	Affidavit of Publication 10/27/06 and 10/31/06 Notice of Award 01/12/07	Bid published in the Skagit Valley Herald and in the Daily Journal of Commerce for the week of 10/20/06 to 10/27/06. City of Mt. Vernon awarded to McClure and Sons, Inc.
MBE/WBE Compliance	Loan Agreement 5/7/07 (Attachment 6) EPA MBE/WBE Quarterly Reports	The recipient agrees to solicit and recruit, to the maximum extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement. In the absence of more stringent goals established by the RECIPIENT's jurisdiction, the RECIPIENT agrees to utilize the DEPARTMENT's goals for MBE/WBE participation in all bid packages, requests for proposals, and purchase orders. These goals are expressed as percentage of the total dollars available for the purchase or contract and are as follow. MBE/WBE reports submitted to EPA
[\$204(d)(2)] [equivalency] Initiation of Operations/Performance Certification:	N/A	Washington has already met the Title II requirements. EPA also notes that this project was not completed at the time of review.

Item Description	What, Where & How Met	Explanation of requirement (if needed)
§201(b)] [equivalency] BPWTT [Best Practical Wastewater Treatment Technology:	N/A	Washington has already met the Title II requirements.
[§201(g)(1)] [equivalency] Eligible Categories	N/A	Washington has already met the Title II requirements.
§201(g)(2) [equivalency] Reclaim, Reuse [Alternative management techniques; e.g., land treatment, small systems, reclamation and reuse of water must be considered]	N/A	Washington has already met the Title II requirements.
§201(g)(3) [equivalency] Infiltration/Inflow	N/A	Washington has already met the Title II requirements.
§201(g)(5) [equivalency] Innovative/Alternative Treatment Technology	N/A	Washington has already met the Title II requirements.
§201(g)(6) [equivalency] Recreation & Open Space	N/A	Washington has already met the Title II requirements.
§201(n)(1-2) [equivalency] CSO Funding Limitations	N/A	Washington has already met the Title II requirements.
§201(o) [equivalency]Capitol Financing Plan	N/A	Washington has already met the Title II requirements.
§204(a)(1)] [equivalency] Water Quality Management Plans:	N/A	Washington has already met the Title II requirements.
§204(a)(2)] [equivalency] Operation and Maintenance	N/A	Washington has already met the Title II requirements.
§204(b)(4)] [equivalency] User Charge System	N/A	Washington has already met the Title II requirements.
[§211] [equivalency] Collection Systems	N/A	Washington has already met the Title II requirements.
[§218] [equivalency] Cost Effectiveness	N/A	Washington has already met the Title II requirements.

Item Description	What, Where & How Met	Explanation of requirement (if needed)
[\$512] [equivalency] Davis Bacon Act	N/A	Davis-Bacon does not apply to this project, but Washington state rules require Prevailing Wage rates per Chapter 39.12 RCW <i>Prevailing Wages on Public Works</i>
[\$511(c)(1)] [equivalency] Environmental Review	10/13/05 Letter from City of Mount Vernon, WA, Development Services Department	Yes, the City of Mount Vernon, WA, Development Services Department "Determination of Non-Significance."
Was the appropriate type of environmental review conducted	See previous comment	Yes, see previous comment.
If another agency's environmental review was adopted, is the adoption process appropriately documented	See previous comment	No documentation in project files to indicate whether or not FNSI was approved by Ecology.
Public Notice	No documentation	
Public Hearing	No documentation	
Was an appropriate range of alternatives evaluated	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	Yes, this evaluation was incorporated into the Facilities Plan
Endangered Species Act	USFWS email – City of Mount Vernon Upgrades 9/20/05	USFWS determined that no further consultation was necessary for USFWS species. "All of the upgrades are outlined in the Comprehensive Sewer Plan and were addressed in the cumulative effects section of the biological opinion (FWS Ref #1-3-03-F-1027 and 1-3-03-C-1216). Because none of the proposed activities will result in effects to listed species that were not analyzed in the opinion, no further consultation is required." The biological opinion cited was not found in the project file. The project file also did not contain documentation to confirm NMFS/NOAA species, critical habitat, or EFH were properly addressed per ESA and MSFCA.
National Historic Preservation Act	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	Addressed P. V-29

Item Description	What, Where & How Met	Explanation of requirement (if needed)
Archeological & Historic Preservation Act	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	“Nothing of significance found” during an archaeological survey of the site completed September 2005, Page V-29
Wild & Scenic Rivers Act	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	Does not apply to this projects as the “...157.5 miles of the Skagit River and its tributaries that were designated Wild & Scenic under this Act apply to the upper Skagit River.”
Coastal Zone Management Act Compliance	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	The project is located within one of Washington coastal communities, Skagit County, and is therefore subject to the CZMA. p. V-30. EPA notes that the Department of Ecology “federal consistency certification” was not found in the project files.
Coastal Barriers Resource Act	N/A	There are no Coastal Barrier Resources in Washington state.
Farmland Protection Act	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	The proposed WWTP upgrades will not impact or convert any existing farmlands to nonagricultural uses, Pp. V-30-31.
E.O. 11990 Wetlands Protection	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	The City of Mount Vernon aerial maps indicated the potential presence of wetlands on a southern portion of the WWTP that would be impacted by construction of the Phase 1 upgrades. The Facilities Plan states that a wetland biologist inspected “auger soil sampling” and concluded that “wetlands hydrology was absent and that soils observed in the data plot locations did not meet the wetland soil criterion. EPA notes that the 9/19/2005 memorandum documenting the wetlands biologist inspection was not found in the project files, Pp. V-31-32.
E.O. 11888 Floodplain Management Act	1. Ike letter – 8/30/05 2. Facility Plan, 10/05	1. “Based on the description you provided in your letter, when compared with Flood Insurance Rate Map panel 5301580002 B, it is evident that the site is entirely within the Special Flood Hazard Area designated as Zone AO (at a depth of 3 feet with velocities of 6 feet per second). Please be advised that any development occurring within a mapped floodplain is subject to appropriate permits. FEMA will expect the City of Mount Vernon to regulate any activities within the floodplain and ensure that all building standards are met.” The WWTP is located within the floodplain of the Skagit River. The City of Mount Vernon’s current Flood Insurance Rate Map (FIRM) indicates that the

Item Description	What, Where & How Met	Explanation of requirement (if needed)
		WWTP site is located in an AO Zone with an average depth of 3 feet and a water velocity of 6 feet per second. The 100-year flood elevation of the Skagit River was confirmed as lying between 27 and 28 feet above sea level with an estimated flood elevation of 27.3 feet above mean sea level. City of Mount Vernon indicated that a 25-foot elevation is acceptable for new construction at the plant, p. V-31. EPA notes that no floodplain related permit documentation was found in the project files.
Clean Air Act Compliance	Mount Vernon WWTP Upgrade Facilities Plan (October 2005)	Air quality impacts presented as insignificant and as related to temporary construction effects, p V-29
Safe Drinking Water Act	No documentation found	
Civil Rights Act	Pre-Award Compliance Report 04/26/07	
E.O. 11246	Loan Agreement 05/05/07	
E.O. 12898 Environmental Justice	No documentation found	
Small Business & Rural Communities Act	Loan Agreement 05/05/07	“Negotiated ‘Fair Share Percentage’ required for SBA is one-half of one percent (0.5%).” And recipient is required to follow affirmative steps to solicit bids from small businesses in rural areas. No reporting required, Attachment 6 Section M.
Uniform Relocation Act	Mount Vernon WWTP Upgrade Facilities Plan (October 2005), Appendix B: SEPA Checklist (signed 9/1/05)	One single-family house will be demolished by the project. SEPA Checklist indicates that this project will not have any displacement impacts, <i>Land and Shoreline Use</i> section - 8 (k), p. 16.
Debarment & Suspension	Loan Agreement 05/05/07	Recipient agrees to comply by signing loan which includes Attachment 6, Section I, p. 3. Excluded Parties List System webpage is also provided http://www.epls.gov . This term and condition supersedes EPA Form 5700-49, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters.”

Reviewer: Mike Lehner
On-site review date: March 5, 2009
Project: City of Mount Vernon; L070001715
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Item Description	What, Where & How Met	Explanation of requirement (if needed)
WA Specific – Certification for Contracts, Grants, Loans, and Cooperative Agreements	Certification signed by Keith Ainsley 3/5/08	